

**In the United States Court of Federal Claims**  
**OFFICE OF SPECIAL MASTERS**  
**No. 24-0829V**

MICHAEL CLAYTON,

Petitioner,

v.

SECRETARY OF HEALTH AND  
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: May 30, 2025

*Jeffrey S. Pop, Jeffrey S. Pop & Associates, Beverly Hills, CA, for Petitioner.*

*Margaret Armstrong, U.S. Department of Justice, Washington, DC, for Respondent.*

**DECISION AWARDING DAMAGES**<sup>1</sup>

On May 29, 2024, Michael Clayton filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*<sup>2</sup> (the “Vaccine Act”). Petitioner alleges he suffered a shoulder injury related to vaccine administration (“SIRVA”), as defined in the Vaccine Injury Table, 42 C.F.R. § 100.3, or in the alternative, that his injuries were “caused in fact” by an influenza (“flu”) vaccination received on November 16, 2022. Petition at 1, 7. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On January 17, 2025, a ruling on entitlement was issued, finding Petitioner entitled to compensation. On May 29, 2025, Respondent filed a proffer on award of compensation (“Proffer”) indicating Petitioner should be awarded a total of \$145,000.00 for his pain and suffering and \$17,733.29 in satisfaction of a State of Colorado Medicaid lien. Proffer at 1-2. In the Proffer, Respondent represented that Petitioner agrees with the proffered award.

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<sup>1</sup> Because this Decision contains a reasoned explanation for the action taken in this case, it must be made publicly accessible and will be posted on the United States Court of Federal Claims’ website, and/or at <https://www.govinfo.gov/app/collection/uscourts/national/cofc>, in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2018) (Federal Management and Promotion of Electronic Government Services). **This means the Decision will be available to anyone with access to the internet.** In accordance with Vaccine Rule 18(b), Petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, I agree that the identified material fits within this definition, I will redact such material from public access.

<sup>2</sup> National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all section references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2018).

*Id.* Based on the record as a whole, I find that Petitioner is entitled to an award as stated in the Proffer.

Pursuant to the terms stated in the attached Proffer, **I award Petitioner the following:**

- A. a lump sum payment of \$145,000.00, to be paid through an ACH deposit to Petitioner's counsel's IOLTA account for prompt disbursement to Petitioner.**
- B. A lump sum payment of \$17,733.29, representing compensation for satisfaction of the State of Colorado Medicaid lien, in the form of a check payable jointly to petitioner and:**

**Colorado Department of Health Care Policy & Financing  
ATTN: Stephanie Monterroso  
303 E. 17th Avenue  
Denver, CO 80203**

Petitioner agrees to endorse the check to Colorado Department of Health Care Policy & Financing for satisfaction of the Medicaid lien. These amounts represent compensation for all damages that would be available under Section 15(a).

The Clerk of Court is directed to enter judgment in accordance with this decision.<sup>3</sup>

**IT IS SO ORDERED.**

**s/Brian H. Corcoran**  
Brian H. Corcoran  
Chief Special Master

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<sup>3</sup> Pursuant to Vaccine Rule 11(a), entry of judgment can be expedited by the parties' joint filing of notice renouncing the right to seek review.

**IN THE UNITED STATES COURT OF FEDERAL CLAIMS  
OFFICE OF SPECIAL MASTERS**

MICHAEL CLAYTON,

Petitioner,

v.

SECRETARY OF HEALTH AND  
HUMAN SERVICES,

Respondent.

No. 24-829V

Chief Special Master Corcoran

ECF

**PROFFER ON AWARD OF COMPENSATION**

On May 29, 2024, Michael Clayton (“petitioner”) filed a petition for compensation under the National Childhood Vaccine Injury Act of 1986, 42 U.S.C. §§ 300aa-1 to -34 (“Vaccine Act” or “Act”), alleging that he suffered a Table shoulder injury related to vaccine administration (“SIRVA”), or in the alternative, that his injuries were “caused in fact” by an influenza vaccination received on November 16, 2022. Petition at 1, 7. On January 17, 2025, the Secretary of Health and Human Services (“respondent”) filed a Rule 4(c) Report indicating that this case is appropriate for compensation under the terms of the Act, and the Chief Special Master issued a Ruling on Entitlement finding petitioner entitled to compensation. ECF No. 14; ECF No. 15.

**I. Compensation for Vaccine Injury-Related Items**

**A. Pain and Suffering**

Respondent proffers that petitioner should be awarded \$145,000.00 in pain and suffering. *See* 42 U.S.C. § 300aa-15(a)(4). Petitioner agrees.

**B. Medicaid Lien**

Respondent proffers that petitioner should be awarded funds to satisfy the State of Colorado Medicaid lien in the amount of \$17,733.29, which represents full satisfaction of any right of subrogation, assignment, claim, lien, or cause of action the State of Colorado may have

against any individual as a result of any Medicaid payments the State of Colorado has made to or on behalf of petitioner from the date of his eligibility for benefits through the date of judgment in this case as a result of his alleged vaccine-related injury suffered on or about November 16, 2022, under Title XIX of the Social Security Act.

These amounts represent all elements of compensation to which petitioner is entitled under 42 U.S.C. § 300aa-15(a). Petitioner agrees.

## **II. Form of the Award**

The parties recommend that compensation provided to petitioner should be made through two lump sum payments described below, and request that the Chief Special Master's decision and the Court's judgment award the following:<sup>1</sup>

- A. A lump sum payment of **\$145,000.00** to be paid through an ACH deposit to petitioner's counsel's IOLTA account for prompt disbursement to petitioner; and
- B. A lump sum payment of **\$17,733.29**, representing compensation for satisfaction of the State of Colorado Medicaid lien, in the form of a check payable jointly to petitioner and:

Colorado Department of Health Care Policy & Financing  
ATTN: Stephanie Monterroso  
303 E. 17<sup>th</sup> Avenue  
Denver, CO 80203

Petitioner agrees to endorse the check to Colorado Department of Health Care Policy & Financing for satisfaction of the Medicaid lien.

Petitioner is a competent adult. Evidence of guardianship is not required in this case.

Respectfully submitted,

YAAKOV M. ROTH  
Acting Assistant Attorney General

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<sup>1</sup> Should petitioner die prior to entry of judgment, the parties reserve the right to move the Court for appropriate relief. In particular, respondent would oppose any award for future medical expenses, future pain and suffering, and future lost wages.

C. SALVATORE D’ALESSIO  
Director  
Torts Branch, Civil Division

HEATHER L. PEARLMAN  
Deputy Director  
Torts Branch, Civil Division

GABRIELLE M. FIELDING  
Assistant Director  
Torts Branch, Civil Division

/s/ Margaret Armstrong  
MARGARET ARMSTRONG  
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DATED: May 29, 2025